

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES E. BRAUN,)
Plaintiff,) Civil Action No. 09 - 83J
v.) District Judge Kim R. Gibson
STATE CORRECTIONAL INSTITUTION)
AT SOMERSET, et al)
Defendants.)

MEMORANDUM ORDER

The above captioned complaint was filed in the Court of Common Pleas of Somerset County, Pennsylvania and was removed to this Court on March 30, 2009. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges' Act, 28 U.S.C. § 636(b)(1), and former Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Commonwealth Defendants filed a Motion to Dismiss (doc. no. 7) on May 24, 2009. The Magistrate Judge's Report and Recommendation (doc. no. 16), filed on November 20, 2009, recommended granting the motion except as to Plaintiff's state law claim of negligence against Defendant Patton. No objections have been filed. This Court's review of the Report and Recommendation is *de novo*.

Upon independent review of the Record, and upon consideration of the Report and Recommendation, the following order is entered:

AND NOW, this 4th day of January, 2010;

IT IS HEREBY ORDERED that the Commonwealth Defendants' Motion to Dismiss (doc. no. 7) is **GRANTED EXCEPT** as to Plaintiff's state law claim of negligence against Defendant Patton.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 16) of Magistrate Judge Lenihan, dated November 20, 2009, is adopted as the Opinion of the Court.



Kim R. Gibson
United States District Judge

cc: James E. Braun
GM-4693
SCI Somerset
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